

# IMPORTANT INFORMATION CONCERNING LAW ENFORCEMENT OFFICER AND FIREFIGHTER COVERAGE UNDER THE FERS AND CSRS

## FLYER

058A-128  
October 10, 1996

TO: Chief, HRMS

SUBJ: VA Directive, Law Enforcement Officer and Firefighter Coverage Determinations

This flyer transmits information about law enforcement officer (LEO) and firefighter (FF) retirement coverage determinations. A number of police officers have submitted requests or are interested in submitting requests for coverage under the CSRS and FERS special retirement provision for LEO/FF employees. VA Directive 5830.1, dated September 13, 1996, (copy attached) delegated authority to facility Directors to deny coverage, and established procedures for requesting approval of coverage from the Assistant Secretary for Human Resources and Administration.

Accordingly, the attached request(s) for LEO/FF retirement coverage are being referred to you for action. Please note that coverage determinations must be based on the guidance contained in Chapter 46 of the CSRS & FERS Handbook (formerly FPM Supp. 830-1).

As you are undoubtedly aware, VA police officers are requesting special retirement coverage based on the decision in the case of Ferrier v. OPM. The Merit Systems Protection Board (MSPB) determined that Ferrier, a police officer, met the definition of law enforcement officer for CSRS purposes. OPM informed us that although the Government decided not to seek a reversal of the MSPB's decision in court, that decision was based on unique circumstances, and that the decision does not have broad application.

Generally, agencies are not to reopen an OPM coverage decision (see Section 46A3.2-1A. of Chapter 46). OPM's predecessor, the Civil Service Commission, has previously and consistently denied special retirement coverage to VA Hospital Police Officers. OPM has issued negative determinations in the following cases:

1. Hospital Police Trainee, 083, Grade 4, PD #52801055A
2. Hospital Police Officer, 083, Grade 5, PD #52801054A
3. Hospital Police Officer, 083, Grade 6, No PD # provided by OPM
4. Hospital Police Lieutenant, 083, Grade 7, PD #52802077A
5. Hospital Police Captain, 083, Grade 9, No, PD # provided by OPM

Rod Meader (202-273-9837) or Bruce Ducharme (202-273-9832) will be glad to provide you a copy of the PD's that OPM was able to give us. The PD's are old and are not in good condition. Therefore, the PD's Rod or Bruce have will not copy well and will have to be sent by mail, rather than by fax. A sanitized copy of a Central Office response in the case of a CSRS-covered police officer is attached, which you may find helpful in rendering decisions.

A FERS-covered employee who is not in an approved LEO/FF position must generally request special retirement coverage within 6 months after entering the position or within 6 months after any significant change in the position. If the employee does not make such a request within this time frame, the agency's determination that the service was not covered by the special provisions is presumed to be correct (see Section 46B3.2-3A of Chapter 46). A sanitized copy of such a decision is also attached. This decision is currently on appeal at the MSPB. We will keep you informed of any MSPB decisions impacting on VA police officers.

Any questions you have about this flyer may be directed Rod Meader at (202) 273-9837, Bruce Ducharme at (202) 273-9832, or Barbara Wright at (202) 273-9841,

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**RETIREMENT COVERAGE DETERMINATIONS FOR LAW ENFORCEMENT  
OFFICERS AND FIREFIGHTERS**

**1. REASON FOR ISSUE:** To delegate authority for determining an employee's entitlement to coverage under the special retirement provisions for law enforcement officers and firefighters.

**2. SUMMARY OF CONTENTS/MAJOR CHANGES:** This directive sets forth policies and responsibilities for issuing law enforcement officer and firefighter special retirement coverage determinations. This directive:

a. Delegates to facility Directors the authority to issue determinations denying special retirement system coverage.


b. Establishes procedures for requesting approval of coverage from the Assistant Secretary for Human Resources and Administration.

**3. RESPONSIBLE OFFICE:** Employee Relations Division (058A), Employee Relations and Performance Management Service, Office of the Deputy Assistant Secretary for Human Resources Management.

**RELATED HANDBOOK:** There is no handbook for this directive.

**5. RESCISSIONS:** None.

**CERTIFIED BY:**

  
Nada D. Harris  
Deputy Assistant Secretary for  
Information Resources Management

**BY DIRECTION OF THE SECRETARY  
OF VETERANS AFFAIRS**

  
Eugene A. Brickhouse  
Assistant Secretary for  
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Distribution: RPC 5041 assigned  
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**RETIREMENT COVERAGE DETERMINATIONS FOR LAW ENFORCEMENT  
OFFICERS AND FIREFIGHTERS**

**1. PURPOSE.** This directive provides Departmental policy for determining an entitlement to coverage under the special retirement provisions for law enforcement officers and firefighters.

**2. POLICY**

a. Facility Directors are authorized to issue determinations denying special retirement coverage.

b. The Assistant Secretary for Human Resources and Administration approves special retirement coverage. If a facility Director determines that coverage may be appropriate, all relevant information including the rationale for concluding that coverage may be appropriate will be forwarded to the Deputy Assistant Secretary for Human Resources Management (05) or designee for review and recommendation. If it is determined that coverage is not appropriate, the case will be returned to the facility Director for completion as a denial.

c. Coverage decisions will be based on the guidance contained in Chapter 46 of the *Civil Service Retirement System and Federal Employees Retirement System Handbook* (formerly Federal Personnel Manual Supplement 830-1). The Handbook provides a Statement of Authority listing the statutory and regulatory provisions covering the special retirement coverage rules.